

Assembly Bill No. 2240

CHAPTER 293

An act to amend Section 4070 of, and to add Section 4071.1 to, the Business and Professions Code, and to add Section 11164.5 to the Health and Safety Code, relating to prescriptions.

[Approved by Governor September 1, 2000. Filed
with Secretary of State September 5, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2240, Bates. Prescriptions: electronic transmission.

The Controlled Substances Act regulates, among other matters, the dispensing by prescription of controlled substances, which are classified into schedules, and the Pharmacy Law regulates, among other matters, the dispensing by prescription of dangerous devices and dangerous drugs, which also include controlled substances. Existing law authorizes the electronic transmission of prescriptions for dangerous devices and dangerous drugs, other than those for a Schedule II controlled substance, which includes cocaine, opiates, and other designated substances, and requires that the prescription be reduced to writing as soon as practicable. Under existing law, the violation of these provisions is a crime.

This bill would provide that a pharmacy receiving an electronic transmission prescription is not required to reduce the prescription to writing or to hard copy form as long as the pharmacy is able to immediately produce a specified hard copy upon request.

The bill would require systems within the pharmacy's computer system to prohibit any changes to or deletions of information stored solely in electronic form unless a correction is made by or with the approval of a pharmacist.

This bill would also authorize prescribers, prescribers' agents, and pharmacists to electronically enter prescriptions and orders, as defined, into a pharmacy's or hospital's computer from an outside location, if permitted by the pharmacy or hospital.

This bill would authorize, with the approval of the California State Board of Pharmacy and the Department of Justice, a pharmacy or hospital to receive electronic data transmission prescriptions and computer entry prescriptions or orders, as described in paragraph (2), for controlled substances in Schedule II, III, IV, or V, if authorized by federal law and in accordance with regulations promulgated by the Drug Enforcement Administration. This bill would also provide that the provisions of paragraph (1) are applicable, upon approval by the board and the department, to the

recording of these prescriptions and orders received by a pharmacy or a hospital.

Because the acts authorized by this bill are subject to specified requirements, the violation of which would constitute a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. It is the intention of the Legislature that pharmacies in this state have the ability to adopt new technologies involving the electronic transmission of prescriptions to reduce the occurrence of dispensing errors and to improve service to Californians. Errors in the dispensing of controlled substances pose the greatest potential of harm to patients. It is the intention of the Legislature that the California State Board of Pharmacy and the Department of Justice allow pharmacies to utilize new technologies to electronically transmit data prescriptions for controlled substances that may reduce the risk of prescription errors as soon as possible after federal law permits this practice, provided that the board and the Attorney General find there is no substantial risk of the diversion of controlled substances by the use of electronic data transmission prescriptions for these substances.

SEC. 2. Section 4070 of the Business and Professions Code is amended to read:

4070. (a) Except as provided in Section 4019 and subdivision (b), an oral or an electronic data transmission prescription as defined in subdivision (c) of Section 4040 shall as soon as practicable be reduced to writing by the pharmacist and shall be filled by, or under the direction of, the pharmacist. The pharmacist need not reduce to writing the address, telephone number, license classification, federal registry number of the prescriber or the address of the patient or patients if the information is readily retrievable in the pharmacy.

(b) A pharmacy receiving an electronic transmission prescription shall not be required to reduce that prescription to writing or to hard copy form if, for three years from the last date of furnishing pursuant to that prescription or order, the pharmacy is able, upon request by the board, to immediately produce a hard copy report that includes for each date of dispensing of a dangerous drug or dangerous device pursuant to that prescription or order: (1) all of the information described in subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a) of Section 4040, and (2) the name or identifier of



the pharmacist who dispensed the dangerous drug or dangerous device. This subdivision shall not apply to prescriptions for controlled substances classified in Schedule II, III, IV, or V, except as permitted pursuant to Section 11164.5 of the Health and Safety Code.

(c) If only recorded and stored electronically, on magnetic media, or in any other computerized form, the pharmacy's computer system shall not permit the received information or the dangerous drug or dangerous device dispensing information required by this section to be changed, obliterated, destroyed, or disposed of, for the record maintenance period required by law once the information has been received by the pharmacy and once the dangerous drug or dangerous device has been dispensed. Once a dangerous drug or dangerous device has been dispensed, if the previously created record is determined to be incorrect, a correcting addition may be made only by or with the approval of a pharmacist. After a pharmacist enters the change or enters his or her approval of the change into the computer, the resulting record shall include the correcting addition and the date it was made to the record, the identity of the person or pharmacist making the correction, and the identity of the pharmacist approving the correction.

(d) Nothing in this section shall impair the requirement to have an electronically transmitted prescription transmitted only to the pharmacy of the patient's choice or to have a written prescription. This requirement shall not apply to orders for medications to be administered in an acute care hospital.

SEC. 3. Section 4071.1 is added to the Business and Professions Code, to read:

4071.1. (a) A prescriber, a prescriber's authorized agent, or a pharmacist may electronically enter a prescription or an order, as defined in Section 4019, into a pharmacy's or hospital's computer from any location outside of the pharmacy or hospital with the permission of the pharmacy or hospital. For purposes of this section, a "prescriber's authorized agent" is a person licensed or registered under Division 2 (commencing with Section 500). This subdivision shall not apply to prescriptions for controlled substances classified in Schedule II, III, IV, or V, except as permitted pursuant to Section 11164.5 of the Health and Safety Code.

(b) Nothing in this section shall reduce the existing authority of other hospital personnel to enter medication orders or prescription orders into a hospital's computer.

(c) No dangerous drug or dangerous device shall be dispensed pursuant to a prescription that has been electronically entered into a pharmacy's computer without the prior approval of a pharmacist.

SEC. 4. Section 11164.5 is added to the Health and Safety Code, to read:

11164.5. (a) Notwithstanding Section 11164, with the approval of the California State Board of Pharmacy and the Department of



Justice, a pharmacy or hospital may receive electronic data transmission prescriptions or computer entry prescriptions or orders as specified in Section 4071.1 of the Business and Professions Code, for controlled substances in Schedule II, III, IV, or V if authorized by federal law and in accordance with regulations promulgated by the Drug Enforcement Administration. The California State Board of Pharmacy shall maintain a list of all requests and approvals granted pursuant to this subdivision.

(b) Notwithstanding Section 11164, if approved pursuant to subdivision (a), a pharmacy or hospital receiving an electronic transmission prescription or a computer entry prescription or order for a controlled substance classified in Schedule II, III, IV, or V shall not be required to reduce that prescription or order to writing or to hard copy form, if for three years from the last day of dispensing that prescription, the pharmacy or hospital is able, upon request of the board or the Department of Justice, to immediately produce a hard copy report that includes for each date of dispensing of a controlled substance in Schedules II, III, IV, and V pursuant to the prescription all of the information described in subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a) of Section 4040 of the Business and Professions Code and the name or identifier of the pharmacist who dispensed the controlled substance.

(c) Notwithstanding Section 11164, if only recorded and stored electronically, on magnetic media, or in any other computerized form, the pharmacy's or hospital's computer system shall not permit the received information or the controlled substance dispensing information required by this section to be changed, obliterated, destroyed, or disposed of, for the record maintenance period required by law, once the information has been received by the pharmacy or the hospital and once the controlled substance has been dispensed, respectively. Once the controlled substance has been dispensed, if the previously created record is determined to be incorrect, a correcting addition may be made only by or with the approval of a pharmacist. After a pharmacist enters the change or enters his or her approval of the change into the computer, the resulting record shall include the correcting addition and the date it was made to the record, the identity of the person or pharmacist making the correction, and the identity of the pharmacist approving the correction.

(d) Nothing in this section shall be construed to exempt any pharmacy or hospital dispensing Schedule II controlled substances pursuant to electronic transmission prescriptions from existing reporting requirements.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction,

eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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